

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 10599 OF 2009

ORDER :

This Writ Petition is filed seeking a *mandamus*, declaring the action of the respondent in trying to interfere with the peaceful possession and enjoyment of the petitioner over the land in an extent of 175 square yards bearing Plot No. 13, Ward No. 9 situated at Survey No. 7 Part-III of Resapuvanipalem of Greater Visakhapatnam Municipal Corporation, without issuing any notice and without following due process of law, as arbitrary and illegal.

The brief averments, which led to filing this Writ Petition, are as follows:

The petitioner asserts that she is the absolute owner and possessor of the subject land from 1983 onwards and to protect the same, she had raised a compound wall on its North and South sides. While the things stood thus, on 23.05.2009, the officials of the respondent visited the property along with their staff, attempted to demolish the compound wall and tried to dispossess her therefrom. With great difficulty, the respondent and its officials were persuaded to leave the site threatening to come back once again. It is the complaint of the petitioner that the respondent officials are acting at the instance of the Corporator of the area concerned who belongs to the then ruling party and who is also inimical towards her. According to her, one Smt. B. Laltiha Devi, a close relative of the said Corporator constructed a huge building with flats to the West side of her (petitioner) property and if the compound wall is removed, it would connect to 60 x 30' road and her building situated on the West side would get more elevation on

two sides. The further case of the petitioner is that such action of the respondent is without any authority of law and is in violation of the settled principles.

This Court, while admitting the Writ Petition, on 28.05.2009, granted interim direction as prayed for. Though the Writ Petition is of 2009, even as on date, no counter-affidavit is filed denying the averments made by the petitioner.

Since the documents filed by the petitioner along with the Writ Petition, *prima facie*, disclose the right of the petitioner over the property in question, there being no denial of title of the petitioner and as it is settled principle that the property rights of a citizen cannot be interfered with, without following due process of law, the Writ Petition is allowed, making it clear that the respondent shall not interfere with the peaceful possession and enjoyment of the petitioner over the subject property, without following due process of law. No costs.

Consequently, the miscellaneous Applications, if any shall stand closed.

CHALLA KODANDA RAM, J

20th September 2018

ksld